

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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**SAUL E. GREENHUT**  
Junior Party  
(Patent No. 5,964,788),

v.

**ALEXIS C. M. RENIRIE**, and **VINCENT J. A. SCHOUTEN**  
Senior Party  
(Application No. 09/494,531).

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Patent Interference No. 105,888 (JL)  
(Technology Center 3700)

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**DECLARATION – Bd. R. 203(b)<sup>1</sup>**

**Part A. Declaration of Interference**

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application, patent, count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this DECLARATION.

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<sup>1</sup> “Bd. R. x” may be used as shorthand for “37 C.F.R. § 41.x”. 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1        **Part B. Judge managing the interference**

2        Administrative Patent Judge Jameson Lee has been designated to manage  
3 the interference. Bd. R. 104(a).

4        **Part C. Standing order**

5        A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this  
6 DECLARATION. The STANDING ORDER applies to this interference.

7        **Part D. Initial conference call**

8        A telephone conference call to discuss the interference is set for **2:00 p.m.**  
9 **on June 12, 2012** (the Board will initiate the call).

10       No later than **four business days** prior to the conference call, each party  
11 shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd.R. 120; Bd.R. 204;  
12 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

13       A sample schedule for taking action during the motion phase appears as  
14 Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the  
15 schedule prior to the conference call and to agree on dates for taking action. A  
16 typical motion period lasts approximately eight (8) months. Counsel should be  
17 prepared to justify any request for a shorter or longer period.

1       **Part E. Identification and order of the parties**

2                               Junior Party

3       Named Inventors:       Saul E. Greenhut, Aurora, Colorado

4  
5       Involved Patent:       5,964,788, issued October 12, 1999, based on  
6       Application 08/959,391, filed October 28, 1997

7       Title:                   Method and apparatus for controlling a pacemaker  
8       using respiration

9       Assignee:               Pacesetter, Inc.

10                              Senior Party

11       Named Inventors:       Alexis C. M. Renirie of Berg en Dal, and  
12       Vincent J. A. Schouten of Cadier en Keer, all of  
13       the Netherlands

14  
15       Involved Application:   09/494,531, filed January 31, 2000

16       Title:                   System and method for respiration-modulated  
17       pacing

18  
19       Assignee:               Medtronic, Inc.

20       The senior party is assigned exhibit numbers 1001-1999. The junior party is  
21       assigned exhibit numbers 2001-2999. Bd.R. 154(c)(1); SO ¶ 154.2.1. The senior  
22       party is responsible for initiating settlement discussions. SO ¶ 126.1.

1       **Part F. Count and claims of the parties**

2                               Count 1

3               Claim 31 of Renirie's Application or Claim 10 Greenhut's Patent

4  
5       The claims of the parties are:

6               Greenhut:                   1-46

7               Renirie:                   1, 2, 5, 9, 15, 18, 26, 29, 31 and 32

8  
9       The claims of the parties which correspond to Count 1 are:

10              Greenhut:                   10, 12, 13, 36, 40, 41 and 42

11              Renirie:                   1, 2, 5, 9, 15, 18, 26, 29, 31 and 32

12  
13       The claims of the parties which do not correspond to Count 1 are:

14              Greenhut:                   1-9, 11, 14-35, 37-39, 43-46

15              Renirie:                   none

16  
17       The parties are accorded the following benefit for Count 1:

18              Greenhut:                   none

19  
20              Renirie:                   Application 08/937,443, filed September 25,  
21   1997, now Patent 6,141,590, issued October  
22   31, 2000

1       **Part G. Heading to be used on papers**

2       The following heading must be used on all papers filed in this interference,  
3   see SO ¶ 106.1.1:

4               UNITED STATES PATENT AND TRADEMARK OFFICE

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6               BEFORE THE BOARD OF PATENT APPEALS  
7               AND INTERFERENCES

8                               

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9               SAUL E. GREENHUT  
10              Junior Party  
11              (Patent No. 5,964,788),

12                               v.  
13

14              ALEXIS C. M. **RENIRIE**, and VINCENT J. A. SCHOUTEN  
15              Senior Party  
16              (Application No. 09/494,531).

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18              Patent Interference No. 105,888 (JL)  
19              (Technology Center 3700)  
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**Part H. Order form for requesting file copies**

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

/Jameson Lee/  
Administrative Patent Judge

Enc:

Copy of STANDING ORDER (March 2011)  
Copy of claims of Application 09/494,531  
Copy of Patent 5,964,788

cc (via overnight delivery):

Attorney for Greenhut:  
PACESETTER, INC.  
15900 VALLEY VIEW COURT  
SYLMAR CA 91392-9221

Attorney for Renirie:  
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